

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RICHARD C. TRIANO,

Plaintiff,

-against-

THE TOWN OF HARRISON and THE  
TOWN OF HARRISON POLICE  
DEPARTMENT,

Defendant(s).

-----X  
07 CIV 6710 (CLB)

**DECLARATION OF  
NEIL TORCZYNER**

Neil Torczyner, an attorney admitted to practice in the courts of the United States District Court for the Southern District of New York, declares the following, under the penalties of perjury

1. I am an associate with the firm of Friedman, Harfenist, Langer & Kraut, attorneys for the Defendants, The Town of Harrison and the Town of Harrison Police Department (“Defendants”) in the above captioned matter and submit this Declaration in support of the Defendants’ motion to dismiss the instant action.

2. The instant matter was commenced by Plaintiff, Richard C. Triano (“Triano”) on June 29, 2007, by filing a Summons with Notice in the Supreme Court of the State of New York, County of Westchester. The Summons with Notice was served on the Defendants on the same date that it was filed. A copy of the Summons with Notice is appended to this submission as Exhibit “A”.

3. Thereafter, on July 9, 2007, the Defendants served a Notice of

Appearance and Demand for a Complaint. A copy of the Defendants' Notice of Appearance and Demand for Complaint is appended to this submission as Exhibit "B".

4. On July 26, 2007, the Defendants removed the matter to this Court. A copy of the Petition for Removal is appended to this submission as Exhibit "C". In so doing, the Defendants indicated that removal was proper as this Court has jurisdiction under 28 USC §1331, 1343 and 42 USC §1983 to determine claims alleging violations of Civil Rights.

5. On August 2, 2007, this Court issued a Scheduling Order mandating that the parties appear for an initial pretrial conference on October 5, 2007.

6. During the October 5, 2007 conference, the Court entered a Scheduling Order requiring that Triano file his complaint no later than October 19, 2007. A copy of the Scheduling Order is appended to this submission as Exhibit "D".

7. As of the present date, the docket sheet for this matter indicates that no Complaint has been filed with the Clerk of the Court.

8. I have also checked with the Town of Harrison Law Department today and have been informed that no Complaint has ever been served on the Defendants.

Dated: Lake Success, New York  
November 26, 2007

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S  
Neil Torczyner